

**Performance Audit  
Police Citizen Complaint Process**

March 2000

**City Auditor's Office**

**City of Kansas City, Missouri**



March 28, 2000

Members of the Board of Police Commissioners and Members of the City Council:

The citizen complaint process was identified as a priority in our June 1996 *Preliminary Review, Kansas City, Missouri Police Department*. This audit reviews the citizen complaint process used to resolve formal allegations of police misconduct. We specifically address two questions:

- Does the current complaint system contain barriers that unduly restrict citizen access?
- Are complaints handled consistently and in compliance with departmental policies?

Both actual and perceived barriers may decrease the credibility of the complaint system. The current process includes several restrictions that we recommend removing. These include procedural barriers that limit who can file complaints, and where and when complaints can be filed; intake locations predominately located in police facilities and staffed by uniformed department personnel that may be intimidating to potential complainants; and restricted access to complaint forms and complaint process materials at intake locations.

We also recommend increasing access to the complaint process by improving communications and expanding the use of mediation as a complaint resolution method. The Office of Citizen Complaints (OCC) has strengthened communications and information efforts; however, its annual report could be improved by explaining the complaint process and providing more statistical information, definitions, and descriptive analyses critical to interpreting the data. Timely annual reports could provide the board, management, and public with information that could be used to identify potential problem areas and offers the department the opportunity to make necessary improvements or changes.

The high likelihood that a complaint cannot be substantiated may also discourage complainants and reduce public credibility. Most investigations can neither substantiate the complaint nor exonerate the officer because there are no third party witnesses to the incident. Studies have found a correlation between citizen attitudes toward complaint system credibility and the outcome of their complaint. One potentially more satisfying method of resolving complaints and eliminating the win or lose outcome is the use of mediation. Although mediation is permitted under department policies, it is used infrequently.

The OCC and Internal Affairs Unit employees generally follow department policies and procedures; however, the most recent revision to those policies decreased civilian oversight over the complaint system and expanded the role of uniformed intake personnel. Our tests of the intake system found that intake personnel are not always aware of the correct procedures. In one case, an auditor was told that complaints had to be filed at the Jackson County courthouse.

The chief of police, the director of the Office of Citizen Complaints, and the captain of the Internal Affairs Unit received a draft of this report on January 28, 2000. Responses are included as appendices. We appreciate the cooperation extended to us during the course of this audit by the Office of Citizen Complaints, the Internal Affairs Unit, and other employees of the Kansas City, Missouri Police Department. The audit team for this project included Anatoli Douditski, Nancy Hunt, and Evalin McClain.

Mark Funkhouser  
City Auditor

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# Performance Audit: Police Citizen Complaint Process

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## **Performance Audit: Police Citizen Complaint Process**

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## Introduction

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### Authority

This audit of the Police citizen complaint process was conducted under the authority of Chapter 84, Section 350, Revised Statutes of Missouri, which authorizes the city auditor to audit the Police Department. This section provides that the city auditor determine which agencies or divisions of the Police Department would most benefit from performance auditing and notify the Board of Police Commissioners. We identified the citizen complaint process as a priority in our June 1996 *Preliminary Review, Kansas City, Missouri Police Department*.

The state statute also provides that the city auditor schedule such audits in conjunction with the Board of Police Commissioners “as to not disrupt or interfere with the conduct of police business, the public’s safety or the normal course of said auditors’ duties or responsibilities for such city.” We discussed this report with the board and subsequently initiated it in accordance with these provisions.

**City Auditor’s Office.** Article II, Section 13 of the Charter of Kansas City, Missouri, establishes the Office of the City Auditor and outlines the city auditor’s duties.

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### Objectives

A performance audit is an objective, systematic examination of evidence to independently assess the performance of a government organization, program, activity, or function in order to provide information to improve public accountability and facilitate decision-making.<sup>1</sup> This audit was designed to answer the following questions:

- Does the current complaint system contain barriers that unduly restrict citizen access?
- Are complaints handled consistently and in compliance with departmental policies and procedures?

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<sup>1</sup> Comptroller General of the United States, *Government Auditing Standards* (Washington, D.C.: U.S. Government Printing Office, 1994), p. 14.

## **Scope and Methodology**

We conducted this audit in accordance with generally accepted government auditing standards, with the exception of the completion of an external quality control review of the office within the last three years.<sup>2</sup> Our methods included:

- Interviewing staff of the Office of Citizen Complaints (OCC), the Kansas City, Missouri Police Department's Internal Affairs Unit (IAU), current department employees, the chairman of the Citizens Advisory Task Force, representatives of stakeholder groups, and recognized authorities.
- Reviewing professional literature regarding citizen complaint systems and our 1996 *Preliminary Review*.
- Reviewing department budget and staffing data, written policies and procedures related to the complaint process, investigative procedures, and disciplinary actions.
- Analyzing database records and reviewing a sample of complaint files, including listening to and comparing interview transcripts with related audiotapes.
- Testing complaint-filing procedures at each of the eight locations at which complaints may be filed.
- Interviewing staff in the city's Action Center, and the offices of the mayor and City Council regarding their handling of citizen complaint inquiries.
- Attending the 1999 National Association for Civilian Oversight of Law Enforcement Conference.

No information was omitted from this report because it was deemed privileged or confidential.

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<sup>2</sup> The last review was in April 1995. An external review is planned for the current year.



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## Background

The Office of Citizen Complaints was established in September 1969, in response to recommendations by the Mayor's Commission on Civil Disorder regarding how the Police Department should handle citizen complaints. The commission had been established to study the civil disorder that had occurred in the city following the assassination of Dr. Martin Luther King, Jr. in April 1968.

### The Complaint Process

Citizens wishing to formally file a complaint alleging misconduct on the part of Kansas City, Missouri Police Department employees can obtain complaint forms and file a complaint at eight locations throughout the city. Potential complainants who go to police facilities to file a complaint may discuss the basis of their dissatisfaction with police personnel and resolve the incident without the involvement and oversight of the Office of Citizen Complaints (OCC). For incidents not resolved, or for non-police intake locations, a complaint form is completed and forwarded to the OCC for review. The OCC determines whether the complaint should be conciliated, mediated, or investigated, and contacts the complainants.<sup>3</sup>

**IAU investigates complaints.** OCC sends complaints that it determines need to be investigated to the Internal Affairs Unit (IAU). The IAU investigates the citizen complaints, gathering all relevant information and evidence. The IAU does not make any determinations based on investigation results. Instead, IAU forwards an investigation file back to OCC for review and disposition determination.

**OCC reviews investigation results.** OCC analysts review the completed investigative file, prepare a summary of evidence and conclusions, and recommend a determination of exonerated, substantiated, or unsubstantiated. The OCC director reviews and approves the recommended determination and forwards it to the chief of police and, in instances of more serious allegations, to the Board of Police Commissioners. The board or chief may accept the OCC's

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<sup>3</sup> Procedural Instruction (PI) 98-9 (Citizen Complaint Policy and Procedure), portions of PI 308-3 (Internal Affairs Investigation) and the Operations Manual for the Office of Citizen Complaints outline the roles, responsibilities, and procedures established for the proper handling of citizen complaints. The Internal Affairs Unit Duty Manual provides additional instruction related to investigative procedures.

recommended determination, may ask that it be reconsidered, or may meet to discuss it. Complainants are notified of the final determination of their complaint.

#### **Determination Definitions**

**Exonerated.** Either the action complained about did occur but was found to be justified, legal and proper, or it is determined the alleged action did not occur.

**Unsubstantiated.** The investigation of the complaint produced insufficient information to clearly prove or disprove the allegation. A proper determination of “unsubstantiated” may be justified by lack of witnesses, absence of objective and persuasive proof, or lack of cooperation on the part of the complainant or witness.

**Substantiated.** The subject member acted in violation of the Code of Ethics, Rules of Conduct, or a written directive.

Source: PI 98-9, Annex E Determination of Complaint Classifications.

**Chief of police determines disciplinary action.** Once determination issues have been resolved, the chief of police decides on the disciplinary action. Officers may appeal to the Board of Police Commissioners in cases of termination, demotion, or suspensions of 15 days or more.

#### **Expenditures and Staffing**

The fiscal year 2000 budget for OCC operations is \$287,934. The OCC staff consists of a director, three analysts, and an assistant. All of the OCC staff are civilians.

The Internal Affairs Unit is staffed by 16 people: a captain, two sergeants, ten detectives, and three civilian clerical staff. The fiscal year 2000 budget for the IAU is \$695,130.

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## Findings and Recommendations

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### Summary

Filing a citizen complaint alleging police misconduct should be easier. The current complaint process includes several procedures that unduly restrict who can file complaints, and where and when they can be filed. In addition, intake personnel at some locations provided incorrect information on the complaint process and filing requirements. Procedural barriers and inaccurate information on the complaint process could discourage citizen use of the established complaint system.

Improved communications could also enhance the public's knowledge and understanding of the complaint process. The OCC implemented communications and information recommendations suggested by a citizen task force; however, an expanded and timely annual report, and expanded availability of complaint forms and brochures could strengthen community awareness.

Participant's perceptions of complaint system credibility can also pose a barrier. In most complaint systems, investigations substantiate no wrongdoing on the part of police personnel. This outcome, however, may be unsatisfying to the complainant; studies have found a correlation between citizen attitudes toward a complaint system and the outcome of their complaint. One alternative means of improving complainants' views toward the complaint system is through the use of mediation. Although mediation is permitted under department policies, it is seldom used.

IAU and OCC employees generally follow department policies and procedures. The most recent revisions to those policies, however, decreased civilian oversight over the complaint system and expanded the role of uniformed intake personnel. We found that intake personnel did not handle potential complaints consistently, and in one instance, personnel referred a potential complainant to the Jackson County courthouse.

## **Access to the Complaint Process Could Be Improved**

Barriers currently exist that unduly restrict access to Kansas City's police citizen complaint system. Procedural rules and practices limit who can file complaints, and where and when complaints can be filed. The potentially intimidating atmosphere of intake locations staffed by uniformed police personnel (at police stations) and pre-conditions placed on obtaining complaint forms at many locations could discourage potential complainants. Improved communications on the process and outcomes, including an expanded OCC annual report are needed. Complainants' perceptions of the validity of the complaint system may also pose a barrier. Although mediation is an alternative complaint resolution process authorized by current procedures and could help address those perceptions, it is rarely used.

### **All Complaints Should Be Accepted for Initial Review**

The Police Department's Procedural Instruction 98-9, Citizen Complaint Policy and Procedure, places a number of restrictions on complaints that will be accepted. Anonymous complaints, complaints by persons under 18 years of age unless co-signed by the parent or legal guardian, and complaints received more than 60 days after the date of the incident may be rejected.

Authorities recommend that complaints be accepted from any source, including juveniles and anonymous sources, as long as the complaint contains sufficient factual information to warrant an investigation.<sup>4</sup> One model citizen complaint procedure contains a similar requirement that a department should accept all complaints that are brought to its attention.<sup>5</sup>

The automatic rejection of complaints may result in valid complaints not being investigated. A less restrictive procedure could help ensure that the complaint process identifies problems with specific officers or broad training and policy issues.

All complaints should be accepted for an initial review by the OCC. The OCC director or appropriate designee should have the discretion to eliminate complaints that appear to be hoaxes, clearly false, or

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<sup>4</sup> *Police Agency Handling of Citizen Complaints: A Model Policy Statement*, Police Executive Research Forum, 1981, p. 10; and *Local Government Police Management*, William Geller, ed., (Washington, D.C.: International City/County Management Association, 1991), p. 262.

<sup>5</sup> Draft of *Police Accountability: The Role of Citizen Oversight*, Samuel Walker, October 1999, Version 3.2, Appendix "A Model Citizen Complaint Procedure". This book is expected to be published in the Fall of 2000.

impossible to investigate. While less restrictive filing requirements will probably result in an increase in the number of complaints received for initial review, the OCC director should continue to use professional judgment and experience in determining which complaints should be forwarded to the IAU for investigation.

### **Complaints Should Be Accepted at More Locations**

Citizens may be more at ease filing complaints in non-police settings, however, only the OCC and Ad Hoc Group Against Crime<sup>6</sup> intake locations are not staffed with uniformed police personnel. Complaints are also accepted at five police stations and police headquarters. Complainants may find the atmosphere of a police station intimidating. Research indicates that citizens are more at ease filing complaints in a non-police setting. In an attitudinal survey, researchers found that only 19 percent of those who bring complaints against the police felt comfortable filing a complaint at a police building, while 64 percent of complainants preferred to talk to civilians.<sup>7</sup>

The Citizens Advisory Task Force Committee's<sup>8</sup> January 1997 report to the Board of Police Commissioners suggested that additional sites for the filing of citizen complaints be explored. While the OCC did expand intake locations to include Ad Hoc, suggestions that additional sites be used, such as the Guadalupe Center, have not been implemented.

Citizens should be able to obtain a complaint form or file complaints at neutral, convenient locations throughout the city. The director of the OCC and chief of police should identify and establish additional complaint intake locations. In expanding intake locations, consideration should be given to locations serving non-English speakers and other generally accessible locations such as government offices, community centers, and libraries. Alternative methods of filing complaints such as via telephone and e-mail should also be investigated in order to further expand access to the complaint process.

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<sup>6</sup> Ad Hoc Group Against Crime is a nonprofit organization that works to reduce crime, violence, illicit drug abuse and trafficking, and gang activity.

<sup>7</sup> Douglas W. Perez and William Ker Muir, "Administrative Review of Alleged Police Brutality", *And Justice for All: Understanding and Controlling Police Abuse of Force*, (Washington D.C.: Police Executive Research Forum, 1995) pp. 212-213.

<sup>8</sup> The Citizens Advisory Task Force was charged with reviewing the OCC and making recommendations on how the OCC could better serve citizens and the police.

### **Complaint Forms Should Be Available Without Staff Assistance**

In order to test how intake personnel handle citizens who want to file complaints against police personnel, auditors made two unannounced test visits to each of the eight complaint intake locations. Each auditor asked the intake staff how to file a complaint against a police officer. While all auditors eventually would have been able to file a complaint, some intake personnel placed conditions on obtaining complaint forms.

Complaint forms cannot be obtained without the assistance of staff. While the OCC will mail or fax a complaint form upon request, staff at some locations told auditors that the form would only be provided if it was completed there or returned to that specific intake location. One auditor was told that the name of the subject officer would have to be provided before the form could be supplied.

A brochure providing information on the complaint process was not readily available at most complaint intake locations. The OCC and East Patrol were the only sites at which auditors were provided with a copy of the brochure, and only the OCC provided the brochures in a display for citizens to see without the assistance of staff. The OCC brochure and complaint form should be more widely available and more easily accessible to the public.

Limits on complaint form availability and restrictive complaint filing methods may discourage some potential complainants from filing complaints. While assistance from intake personnel should be available if needed or requested by potential complainants, complaint forms and information should be readily available without restrictions.

### **Communications Have Improved, But Better Annual Reporting Is Needed**

Communication is a key element in developing community awareness and improving trust in the complaint process. The amount and quality of public information on the complaint process, investigative results, and disciplinary actions is one method of judging a complaint system. The OCC has implemented a number of improvements in its communication with the public and the Board of Police Commissioners, but its annual report needs to be improved.

**Experts identify communications as critical.** Authorities in police complaint systems have identified a number of critical elements related to communications and outreach systems. One expert's model complaint

process includes a number of complaint standards, including publication and dissemination of informational materials describing the complaint process; regular participation in community meetings to explain the complaint process and to hear citizen concerns about policing; prompt notification of the disposition of complaint investigation; and establishment of a customer feedback procedure.<sup>9</sup>

**Citizens task force recommends communications improvements.**

The need for improved communications and information processes was central to the Citizens Advisory Task Force Committee's January 1997 report. The task force recommended that the OCC provide written and oral reports at the regular monthly meeting of the Board of Police Commissioners in order to identify trends that could be targeted for additional training; the board develop a brochure describing the OCC process; a public education campaign be initiated; and more detailed and individualized information on the outcome of complaints be provided to complainants.

The monthly meeting of the Board of Police Commissioners now includes a presentation by the OCC's director; an OCC brochure was published; OCC and IAU staff make presentations at community meetings and are included in the police training curricula; and timely communications with officers and complainants have increased. Each of these efforts should be continued and expanded. Further improvement, however, is needed in the OCC annual report.

**Annual report should provide more information.** The current annual report provides only minimal statistical information, without descriptive analyses and basic definitions critical to interpreting the data. In addition, the report is not published in a timely manner. Although the OCC provides monthly reports to the Board of Police Commissioners, the annual reports for 1997 and 1998 were not released until September 1999.

The annual report should provide the department, board, and public with more detailed data about complaints, the activities of the OCC, and the complaint process. A more useful annual report would include definitions of terminology used, explanations of the process and procedures, information on policy issues and community outreach activities, and expanded statistical data. (See Appendix B for statistical information developed from IAU and OCC data.)

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<sup>9</sup> Draft of *Police Accountability: The Role of Citizen Oversight*, Samuel Walker, October 1999, Version 3.2, Appendix "A Model Citizen Complaint Procedure". This book is expected to be published in the Fall of 2000.

**Single database of OCC complaint information is needed.** The OCC maintains a computer spreadsheet containing basic complaint information. The annual report, however, is generated from manual records. The IAU maintains a more complete but separate database of OCC complaint information. Both sets of data store valuable information; however, because each office maintains separate computer files, records and data entry are duplicated. Current computer capabilities in the OCC are limited. Automated IAU reports were designed some time ago, and the information generated is not always accurate.

A single database for OCC complaints should be developed for use in gathering, delivering, and sharing information between the OCC and IAU. A single, more complete database of OCC complaint information could permit, after initial development, access to a broad range of statistical information generated with minimal effort. The presentation of expanded statistical information should facilitate opportunities for analytical review by the board and public, as well as OCC and IAU staff, which could lead to more rapid identification of trends and opportunities for improvement and change.

### **Complainants' Perceptions Can Create Barriers**

The perception that the complaint system is unfair could pose a barrier to complainants. Many complainants reject the legitimacy of any type of police review system, because their complaints are not substantiated. In the majority of incidents reviewed in any police complaint system, police officers are found to have acted properly and legally. Complainants equate the integrity of the complaint system with the outcome of their complaint.<sup>10</sup> A 1992 survey of Kansas City complainants found a correlation between complainant satisfaction and the individual outcome of their complaint.

**Outcomes can leave all participants dissatisfied.** Often, investigations can neither prove nor disprove misconduct independent of the statements of the subject officer and complainant, because there were no third party witnesses to the incident. As a result, unsubstantiated findings, neither siding with the complainant nor absolving the officer of wrongdoing, make up a large portion of the outcomes of all types of review systems. (See Appendix B, Exhibit 5.)

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<sup>10</sup> *And Justice For All: Understanding and Controlling Police Abuse of Force*, p. 216.



**Alternative resolution could increase citizen acceptance.** Because views of system integrity are tied to outcome and outcomes may not satisfy either complainants or the subject officers, it becomes important to consider alternative resolution processes. Mediation is an alternative dispute resolution process that might satisfy participants in a more direct and personal way.

**Mediation may enhance complainants' perceptions of fairness.** Mediation is an alternative dispute resolution method that uses a neutral third party to resolve disputes. The current requirements of PI 98-9 permit the OCC director to suggest voluntary, confidential mediation when appropriate. The OCC uses mediation when there is some doubt whether there was a violation of policy or an officer may have acted unprofessionally. Fewer than seven complaint mediations were conducted during the last three years.

Experts in police complaint systems recommend the inclusion of a mediation component as a voluntary method for resolving most types of complaints. Through the mediation process, participants are provided an opportunity to present their perspectives on an incident and know that it is being heard and taken seriously.

The director of the OCC should consider the increased use of mediation as an alternative method of complaint resolution. Because staffing constraints may limit the OCC staff's ability to personally participate in mediations, the OCC should investigate the possibility of developing a pool of local mediators. Potential sources could include mediation staff from the federal Justice Department and the city's Office of Human Relations.

**Mediation efforts should be assessed and reported.** Complaints closed based on mediation should be recorded in the complaint system database and reported in the OCC's annual report. In addition, the director of the OCC should regularly evaluate participants' experiences with mediated complaint resolution and report the status to the board.

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## **New Procedure Limits Accountability in Complaint Handling**

Revisions to PI 98-9 procedures assigned expanded responsibilities to department personnel at intake locations, reducing the OCC's oversight and involvement in reviewing complaints and IAU's investigative responsibilities. These changes mean that intake personnel—who are, in many cases, uniformed police personnel—may screen complaints, sometimes requiring complainants to discuss their case prior to receiving

a complaint form. The revised procedures weaken controls and civilian oversight over the citizen complaint process, and increase the likelihood that complainants will not be treated consistently.

### **Policy Change Resulted in Increased Intake Responsibilities**

In 1998, revisions to PI 98-9 expanded the role and increased the discretion of personnel in resolving complaints at police intake locations. The previous complaint process segregated incompatible duties and responsibilities between different elements of the complaint review process, generally assigning the following roles and responsibilities:

- Police and OCC accepted citizen complaints.
- OCC reviewed and assessed all complaints, resolved complaints when possible, and identified complaints that required IAU investigation.
- IAU conducted investigations, gathering information for evaluation.
- OCC reviewed investigations and recommended disposition.
- The chief of police determined disciplinary action.

**OCC does not review all complaints.** The 1998 revision to the policy limited the role of the OCC to receiving complaints that “are not resolved at a lower level.” In addition, language was added that directed department personnel to forward complaints to the OCC “when appropriate.”

The new procedure expands the role of intake personnel at police facilities by requiring that they attempt to resolve complaints and determine whether OCC involvement is appropriate. These expanded roles require station personnel to interview complainants and to investigate and resolve complaints if possible. These changes cause the roles and responsibilities of intake personnel at police facilities to overlap those of the OCC and IAU, thus potentially reducing those offices’ responsibility and oversight.

### **New Procedure Weakens Civilian Control Over Complaint Process**

By requiring intake personnel to investigate and resolve complaints and forward to OCC only those deemed to be “appropriate,” the policy creates an opportunity for police personnel to circumvent OCC’s civilian control. According to the procedure, complaints resolved at a lower level need not be investigated by trained, IAU detectives and no further

action or documentation of the complaint is provided to the OCC. Without OCC involvement, civilians do not monitor complaint intake or oversee and review investigations.

### **Intake Personnel May Not Know Correct Procedures**

Although revisions to the complaint procedures awarded more responsibility to intake personnel, we found that some seemed to be unaware of the correct procedures to follow. PI 98-9 states that complaints may be filed at any police facility, OCC, and Ad Hoc. Intake personnel at six locations, however, advised auditors that the complaint form needed to be returned to the location from which it was obtained. During seven visits, auditors were told that they could have a form only if they completed it at the station, and one other was told that the form would be available only after the name of the officer against whom the complaint would be filed was provided. Auditors were given complaint forms to take with them at only 7 of 16 test visits.

**One auditor was directed to the county courthouse.** During 15 of 16 test visits, intake personnel told auditors that a citizen complaint could be filed at their station or office location. However, one auditor was told that in order to file a complaint against a Kansas City police officer, he needed to go to the Jackson County courthouse. Once at the courthouse, county security personnel directed him to the Argyle building, which houses the offices of the OCC and IAU. Although complaints regarding police misconduct may be addressed by citizens filing lawsuits directly against the police or through criminal charges filed by prosecutors, sending someone to the county courthouse was clearly outside the procedures established in PI 98-9.

### **PI 98-9 Should Be Revised**

Based on our testing of the complaint intake process and our review of professional literature on police complaint procedures, PI 98-9 should be revised to reestablish OCC control over the process.

Intake personnel should not inquire or make any judgments concerning the merits of individual complaints. Requiring station staff to interview, classify, investigate and resolve potential complaints that could be serious enough to require disciplinary action combines incompatible responsibilities and has blurred the basic intake responsibilities. The OCC was previously responsible for reviewing all complaints, determining which complaints warrant investigation, and reaching a determination on the complaint. All citizen complaints should be reviewed and evaluated by the OCC with necessary investigations conducted by the IAU. Segregation of duties and OCC oversight over

complaint intake and subsequent investigations should allow OCC to play a key role in helping to identify systemic policy issues and training needs that need to be addressed.

Finally, intake personnel should be trained in the proper procedure for receiving complaints and their responsibility to provide complete and accurate information on how to file a complaint.

**Periodic testing of intake process needed.** Our testing of the complaint intake process and the opinions of outside authorities suggest that the intake process should be regularly reviewed and tested. Random visits to intake locations or calls to appropriate offices requesting information about the complaint process could identify locations or personnel who lack adequate knowledge to assist potential complainants. The OCC should arrange for regular testing of the complaint intake process.

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## **Policies and Procedures Are Generally Followed**

Citizen complaints are generally handled in compliance with departmental policies and procedures except that neither the IAU nor OCC consistently met the investigation and review deadlines of PI 98-9. Our review also found weaknesses in the statement process. We reviewed files and computer database information for compliance with policies and procedures, completeness, and timeliness. We did not assess whether appropriate determinations were made based on the investigations conducted.

### **IAU and OCC Procedures Generally Followed**

IAU investigations were generally conducted and documented in compliance with written procedures and policies. Investigations are conducted by an IAU detective, reviewed by an IAU sergeant and captain, and then forwarded to the OCC. OCC staff review and evaluate the materials and information provided, writing a summary and recommending individual determinations. OCC staff also have the authority to return a file to the IAU for additional information related to the incident.

**Most interview procedures followed.** Our review of files and audiotapes found that statements, while not verbatim transcripts, were generally fair and accurate representations of what was said. Detectives asked standard questions as required by the IAU Duty Manual. We also found, however, that some detectives asked leading questions or concentrated on the potential criminal activities of the individual rather

than first obtaining an uninterrupted recount of events. Leading questions tend to direct the person being interviewed toward the interviewer's preconceptions, and can limit the development of other useful and relevant information.

Internal Affairs detectives are required to take a formal, signed statement from all complainants, witnesses, and police officers who are subjects of citizen complaints. The IAU Duty Manual instructs detectives to ask certain standard questions during every interview and to avoid certain types of questions, including leading questions. The procedure requires that each interview be typed verbatim by IAU typists. If a typist is unavailable, the interview is recorded and subsequently transcribed, and the tape is recycled.

**Interview tapes were repeatedly stopped and restarted.** In listening to five audiotapes, we found that some of the tapes had been stopped and restarted during the recording of the interview. One officer interview contained nine instances in less than 26 minutes during which the tape was stopped and restarted. Stops and starts were also noted on one other tape reviewed.

Although stopping and restarting a tape during an interview is not prohibited, the number and frequency of stops during the 26-minute interview seems high. While eight of the nine stops appear to occur at the end of an answer and before the next question, one of the stops occurred to allow the officer to change an initial answer.

In order to ensure that interviews are thorough and free of bias, one expert's model complaint process recommends that all interviews be taped and that reviews of tape recordings be included as part of the regular audit of the complaint investigation process.<sup>11</sup> Interviews with complainants, subject officers, and witnesses should be recorded in their entirety and the tapes should be maintained. The OCC should conduct or arrange for the periodic review of selected audiotapes to ensure that interviews and transcripts are complete, accurate, and free of bias.

### **OCC and IAU Files Were in Order**

OCC receives and documents citizen complaints filed at all locations in the city. OCC maintains manual and computer-based logs of citizen complaints. The office also maintains files on complaints that do not warrant investigation by the IAU and essential documents for complaints investigated by the IAU. We reviewed a sample of 28 files of complaints

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<sup>11</sup> Draft of *Police Accountability: The Role of Citizen Oversight*, Samuel Walker, October 1999, Version 3.2, Appendix "A Model Citizen Complaint Procedure". This book is expected to be published in the Fall of 2000.

that had been investigated by IAU to assess the information collected and maintained by OCC. We found that staff regularly updates the manual log, which appears more accurate than the computer-based log. We also observed that the information in the files is generally consistent with the manual log.

**IAU detectives compile investigative files.** The IAU Duty Manual provides specific requirements for filing documents related to OCC complaint investigations. Our review of a sample of 18 IAU investigative files determined that they contained essential and relevant documents and complied with duty manual requirements.

### **IAU Investigation and OCC Review Deadlines Not Met**

PI 98-9 requires that IAU personnel complete investigations of citizen complaints within 30 workdays of receiving the complaints. For investigations not completed within the 30-day time period, the IAU notifies the OCC director of the delay. We found that only 14 percent of completed investigations between 1995 and 1998 were concluded within 30 working days. (See Exhibit 1.)

Exhibit 1. Timeliness of IAU Citizen Complaint Investigations, 1995-1998

Disposition	Up to 30 Working Days	31-60 Working Days	61-90 Working Days	Over 91 Working Days
Substantiated	9	35	7	2
Unsubstantiated	93	455	116	44
Exonerated	16	64	17	0
Completed Investigations	118	554	140	46
Percentage	14%	65%	16%	5%

Source: OCC database.

IAU staff interprets the 30-workday requirement to mean the next 30 scheduled working days of the assigned individual detective, rather than the IAU's next 30 workdays. Staff also told us that scheduling interviews with complainants, witnesses, and officers who work non-traditional workweeks can make it difficult to meet the 30-workday requirement.

PI 98-9 also provides that the OCC completes processing of complaints after the receipt of the completed IAU investigation files in 10 working days. For complaints filed between 1994 through mid-September 1999, we found that only 51 percent of the completed investigations were processed within the 10 working day time period by the OCC. (See Exhibit 2.)

Exhibit 2. Timeliness of OCC Post-Investigation Processing

Working Days	Number of Complaints	Percentage of Total
10 or Less	1,151	51%
11 or more	1,115	49%

Source: IAU Database.

Prompt investigation of all complaints is preferred. However, the requirements that investigations be completed within 30 working days and OCC review and determinations be completed within 10 working days should be reviewed for reasonableness. Timeliness standards should be specifically defined so that performance against the requirement may be measured.

## **Recommendations**

1. The director of the Office of Citizen Complaints should develop a resolution for consideration by the Board of Police Commissioners to adopt a policy to accept any and all complaints for initial review by the OCC.
2. The director of the Office of Citizen Complaints should identify and establish additional complaint intake locations, take steps to ensure easy access to complaint materials, and explore alternative methods of filing complaints.
3. The director of the Office of Citizen Complaints and the chief of police should develop a common database of OCC complaint-related information.
4. The director of the Office of Citizen Complaints should redesign and expand the OCC's annual report to provide a more useful, comprehensive, and timely report.
5. The director of the Office of Citizen Complaints should expand the use of mediation in complaint resolution and report on mediation experiences.
6. The director of the Office of Citizen Complaints and the chief of police should work together to revise PI 98-9 to clearly outline the responsibilities of intake personnel to accept all complaints and forward all complaints to the OCC for review and resolution.
7. The director of the Office of Citizen Complaints should develop and institute a procedure to regularly test the complaint process, including monitoring intake procedures and reviewing tape-recorded interviews.
8. The chief of police should direct that complete and unedited tape recordings of all complaint-related interviews be maintained as part of the investigative file.



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## **Appendix A**

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### **Definitions of Complaint Classifications**



## Complaint Classifications

### Category I

**Unauthorized Use of Force.** Those instances where the amount of force used is more than needed to effect the arrest or apprehension of a suspect, to restrain a prisoner, or to subdue a belligerent party.

**Abuse of Authority.** Those instances when a sworn officer used his authority in a manner not outlined by law or his professional duties in which he gains access to buildings, materials, or information not specifically delegated to him. This category also includes orders issued by a sworn officer not in accordance with established department policy or procedure, or not in accordance with the city ordinances or state and federal law.

**Discourtesy.** The excessive use of rude and/or belligerent language or behavior during arrest. Also includes profanity. The use of threats and the use of language which casts aspersions upon a person's parentage, physical make-up, occupation, mental capabilities, etc.

**Inappropriate Slurs.** Language, conduct, or behavior, which is derogatory of a person's race, religion, creed, or nationality.

### Category II

**Missing Property.** The taking of a suspect/prisoner's property which is unlawful, unwarranted, or unrecorded during an arrest, detention or investigation. This category also includes items removed from a vehicle during towing and while impounded.

**Harassment.** Unnecessary or excessive contact between a sworn officer and a citizen without real or good cause. This category may include threats of imprisonment without notification of arrest.

**Violation of Department Procedures.** A breach of departmental guidelines or operating procedures. Includes improper search and seizure, not advising an arrest of the Miranda warnings, etc.

**Improper Police Conduct.** Unnecessary or unprofessional language or actions by an officer in the discharge of duties, including traffic enforcement, general arrests, other police service and off duty employment. More serious breaches of conduct are coded as discourtesy.

**Lack of Police Service.** Instances where officers are either extremely slow in responding or do not respond to a scene where police intervention is deemed necessary. Includes officer's refusal to take a report where required.

Source: OCC records.



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## **Appendix B**

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### **Background Information Compiled from OCC and IAU Records**



Exhibit 3. Complaints Classified by Alleged Misconduct

Complaint Classification <sup>12</sup>	1994	1995	1996	1997	1998	9/16/99	Total	Total
						YTD		Percent
Police Conduct	128	114	113	89	103	99	646	27%
Violation of Dept. Proc.	105	70	118	97	95	69	554	23%
Unauthorized Use of Force	71	98	111	105	91	70	546	23%
Police Service	42	38	49	26	24	14	193	8%
Harassment	45	32	56	12	16	5	166	7%
Discourtesy	22	27	28	18	18	12	125	5%
Missing Property	25	21	10	10	13	4	83	3%
Abuse of Authority	8	12	19	2	1	1	43	2%
Inappropriate Slurs	8	3	4	0	5	4	24	1%
Total	454	415	508	359	366	278	2380	100.0%

Source: IAU database.

Exhibit 4. Files Closed Without Completed Investigations

Reason For Closing	1994	1995	1996	1997	1998	Total	Total
							Percent
Conciliation <sup>13</sup>	125	212	144	262	225	968	52%
Complainant Uncooperative <sup>14</sup>	118	136	175	137	131	697	37%
Complaint Withdrawn <sup>15</sup>	37	46	38	41	42	204	11%
Other <sup>16</sup>	-	-	-	-	9	9	.4%
Total	280	394	357	440	407	1878	100%

Source: OCC Annual Reports.

<sup>12</sup> See Appendix A for definitions.

<sup>13</sup> If the allegations in a complaint reviewed by the OCC are consistent with approved police procedures, the OCC will attempt to contact the complainant, explain the related police procedures, and solicit additional information related to the incident. If any of the additional information suggests that police procedures were not followed, a complaint is opened for investigation. If established procedures were followed, the incident will be classified as a conciliation, a formal complaint file will not be opened, and the complainant will be notified.

<sup>14</sup> Complainant cooperation is necessary to obtain complete information on a citizen complaint. A signed complaint and interview transcript are the basic, initial documents required for each complaint. In some cases, additional information including a polygraph test may be requested. During the course of the investigation if the complainant cannot be contacted or does not make himself available to provide required information, failed attempts at contacting the complainant will be documented, and a formal request to close the file will be submitted to the OCC for approval.

<sup>15</sup> Complainants may reconsider the initial decision to file a complaint after filing a signed complaint. To withdraw a complaint, a complainant must sign a form documenting the decision to withdraw their complaint.

<sup>16</sup> Complaints are sometimes closed for "other" reasons, including discovering that an incident does not involve a Kansas City, Missouri, officer.

Exhibit 5. Determinations of Citizen Complaints Against Police Personnel

Determination <sup>17</sup>	1994	1995	1996	1997	1998	9/16/99	Total	Total Percent
						YTD		
Exonerated	179	198	298	192	229	86	1182	50%
Unsubstantiated	234	245	215	146	137	78	1055	45%
Substantiated	17	21	16	18	34	6	112	5%
Total	430	464	529	356	400	170	2349	100%

Source: IAU Database.

Exhibit 6. Disciplinary Actions Taken for Substantiated Complaints

Disciplinary Action	1994	1995	1996	1997	1998	9/16/99	Total	Total Percent
						YTD		
Disciplinary Counseling	2	4	2	5	17	1	31	38%
No Disciplinary Action	6	1	6	3	4	1	21 <sup>18</sup>	26%
Suspension	2	3	5	5	0	0	15	19%
Letter of Reprimand	3	1	3	3	3	0	13	16%
Termination	0	1	0	0	0	0	1	1%
Total	13	10	16	16	24	2	81	100%

Sources: IAU database and OCC records.

Exhibit 7. Race of Subject Officers and Complainants/Co-Complainants, 1994 through September 16, 1999

Complainant/ Co-Complainant	Subject Officer								
	Caucasian	African-American	Hispanic	Asian	Native American	Other	Total Known	Unknown	Total All
Caucasian	959	153	36	9	2	1	1160	69	1229
African American	2482	316	68	19	1	-	2886	184	3070
Hispanic	65	4	5	1	-	-	75	7	82
Asian	8	-	-	-	-	-	8	-	8
Other	3	-	1	-	-	-	4	-	4
Unknown	228	43	9	2	-	-	282	54	336
Total	3745	516	119	31	3	1	4415	314	4729
Subject Officers	85%	12%	3%	1%	-	-	100%	N/A	-
Department Officers	83%	12%	4%	1%	-	-	100%	N/A	-

Sources: IAU database and 1999 Police Department Human Resources records.

<sup>17</sup> See text box on page 4 for definitions.

<sup>18</sup> 20 of 21 officers receiving no disciplinary action for a substantiated complaint were given instructional interviews. An instructional interview is not a disciplinary action, but is training regarding inappropriate behavior.



Exhibit 8. Number of Complaints Filed by Complainants and Co-Complainants, 1994 through September 16, 1999

Number of Complaints Filed	Number of Complainants/ Co-Complainants
1 Complaint	2,656
2 Complaints	135
3 Complaints	20
4-6 Complaints	8

Source: IAU Database.



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## **Appendix C**

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### **Police Chief's Response**



# Police

KC/MO

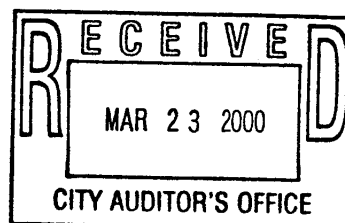
**Richard D. Easley**  
Chief of Police

March 22, 2000

**Chief's Office**  
1125 Locust Street  
Kansas City, Missouri 64106

Office (816) 234-5010  
Fax (816) 234-5013

Mr. Mark Funkhouser  
City Auditor  
21<sup>st</sup> Floor, City Hall  
414 East 12th Street  
Kansas City, MO 64106



Dear Mr. Funkhouser:

After reviewing a copy of your audit of the police citizen complaint process and meeting with you and your staff today, I am providing this response to recommendations 3, 6, and 8.

**Recommendation 3: The director of the Office of Citizen Complaints and the chief of police should develop a common database of OCC complaint-related information.**

I agree. The Information Services Division is in the process of networking the entire police department. Network cabling in the Argyle Building is complete. The Information Services Division plans to begin installing new hardware and software as soon as the Headquarters fifth floor networking has been completed.

**Recommendation 6: The Director of the Office of Citizen Complaints and the Chief of Police should work together to review PI 98-9 to clearly outline the responsibilities of intake personnel to accept all complaints and forward all complaints to the OCC for review and resolution.**

The audit identified the need to train clerical personnel on how to handle citizen complaints. The training can be accomplished by supervisors with new employee orientation and added to the training checklist. Furthermore, the informational brochure should be placed at each police facility in plain view where it is easily accessible to citizens.

On January 28, 1997, the Citizens Advisory Task Force Committee submitted its final report to the Board of Police Commissioners. Among its nine recommendations, the committee included as number five, "Kansas City, Missouri Police Department Procedural Instruction 93-1 should be reviewed by the Kansas City, Missouri Police Department and the Board. It should be consistent with the practice of the Office. It should also encourage Department supervisors and commanders to talk with persons making complaints where possible."

On September 12, 1998, in accordance with the Board's new community policing philosophy, recommendations from the Continuous Improvement Process team and the Citizens Advisory Task Force, Procedural Instruction 93-1 was updated to PI 98-9. It directs supervisors, commanders, and OCC personnel to interview complainants and attempt to determine whether the complaint is classified as category one or two. Category One complaints are to be accepted and processed through OCC. Supervisors, commanders, and OCC personnel are directed to make every attempt to resolve Category Two complaints immediately. This allows supervisory personnel to promptly address problems to improve citizen satisfaction, rather than put the complainant through a more lengthy and arduous IAU investigation. However, no individual is to be discouraged from filing an OCC complaint.

Mr. Funkhouser - Police citizen complaint process audit  
Page two  
March 22, 2000

Thus far, the new system has worked exceptionally well. The audit does not substantiate any citizen dissatisfaction with less formal handling of category two complaints in accordance with Procedural Instruction 98-9. However, our discussions with the auditors pointed out the need for providing full documentation of informally handled category two complaints to the OCC director for review. I agree that PI 98-9 should be revised to reflect this change.

**Recommendation 8: The Chief of Police should direct that complete and unedited tape recordings of all complaint-related interviews be maintained as part of the investigative file.**

The tape recorder is used merely as a tool to assist in preparing the typed statement when an investigative typist is not available for live dictation. Once typed, statements are reviewed by the person making the statement and then signed, acknowledging that the statement is an accurate account of what was said. I agree that the reason for any interruption in the recording can be noted and the tapes can be retained in the file until the statement is signed. However, I disagree that those statements that are transcribed by live dictation should be simultaneously tape-recorded. The additional cost of tapes, tape recording equipment in the interview rooms, and tape storage cannot be justified.

As a final point of discussion, it is unfortunate that the unpublished book, "Police Accountability: the Role of Civilian Oversight" being written by Samuel Walker was not available for my review. I am very interested in any new models being developed to improve the quality of internal affairs investigations.

Sincerely,

  
Richard D. Easley  
Chief of Police

RDE/fc

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## **Appendix D**

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### **Director of the Office of Citizen Complaints' Response**





PHONE: 234-5004-05

# **BOARD OF POLICE COMMISSIONERS**

## **OFFICE OF CITIZEN COMPLAINTS**

510 ARGYLE BUILDING - 306 EAST 12TH STREET

**KANSAS CITY, MISSOURI 64106**

### **MEMBERS**

**JEFFREY J. SIMON**  
PRESIDENT

**JOSEPH J. MULVIHILL**  
VICE PRESIDENT

**DENNIS C. ECKOLD**  
TREASURER

**DR. STACEY DANIELS-YOUNG**  
MEMBER

**MAYOR KAY BARNES**  
MEMBER

**BRYAN E. ROUND**  
SECRETARY-ATTORNEY

**I. PEARL FAIN**  
DIRECTOR OF OCC

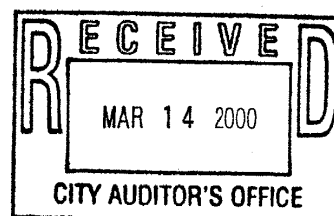
**JOHNNIE A. CRAWFORD**  
OCC ANALYST

**JIM L. FIGHT**  
OCC ANALYST

**HANS T. MUELLER**  
OCC ANALYST

**TAMMY JAROWITZ**  
OCC ASSISTANT

March 13, 2000



Mr. Mark Funkhouser  
City Auditor  
21st Floor, City Hall  
414 East 12th Street  
Kansas City, Missouri 64108

**Re: Response to Draft Audit of the Police Citizen  
Complaint Process**

Dear Mr. Funkhouser:

Pursuant to your letter, dated January 28, 2000, please review my initial reaction to Recommendations 1, 2, 3, 4, 5, 6, and 7 of your draft audit of the police citizen complaint process.

### **RECOMMENDATION 1:**

The director of the Office of Citizen Complaints should develop a resolution for consideration by the Board of Police Commissioners to adopt a policy to accept any and all complaints for initial review by the OCC.

I agree that, given the proper funding, more complaints could be accepted and processed. The change in policy would require more employees to handle the additional complaints.

I partially agree with the recommendation that any and all complaints should be accepted for initial review. At a bare minimum there should be a requirement that the complaint eventually be in writing by the complaining party.

Mr. Mark Funkhouser

March 13, 2000

Page 2

**RECOMMENDATION 2:**

**The director of the Office of Citizen Complaints should identify and establish additional complaint intake locations, take steps to ensure easy access to complaint materials, and explore alternative methods of filing complaints.**

I agree that additional intake locations could be used, but with the caveat that there must be some limit on this number. Additional locations would mean an increase in complaints, which would require additional trained employees to accept and process the complaints.

I agree that access to complaint forms should not be restricted and that they should be available without first having to go through any OCC or police personnel. Examples of alternative accessibility would be posting the complaint form on the Kansas City, Missouri Police Department's web page and having a display with OCC's complaint forms and brochures available at the various complaint in-take locations.

I partially agree that complaints should be accepted in alternative formats or methods, so long as some safeguards are in place to maintain the integrity of the complaint process.

**RECOMMENDATION 3:**

**The director of the Office of Citizen Complaints and the chief of police should develop a common database of OCC complaint-related information.**

I agree that, given proper precautions, and following the requirements of P.I. #98-9, a common database is advisable.

**RECOMMENDATION 4:**

**The director of the Office of Citizen Complaints should redesign and expand the OCC's Annual Report to provide a more useful, comprehensive and timely report.**

I agree that the Annual Report could be redesigned as recommended and that it should be produced in a timely fashion.

Mr. Mark Funkhouser  
March 13, 2000  
Page 3

**RECOMMENDATION 5:**

The director of the Office of Citizen Complaints should expand the use of mediation in complaint resolution and report on mediation experiences.

Mediation is currently used as one means of complaint resolution and the experiences have been positive. I agree that the use of mediation could be expanded and towards those ends and given the approval of the Board, contact could be made with groups such as the Kansas City, Missouri Bar Association, Jackson County Bar Association, Hispanic Bar Association, and the Missouri Bar to inquire as to the availability and cost of outside mediators.

**RECOMMENDATION 6:**

The director of the Office of Citizen Complaints and the Chief of Police should work together to revise P.I. #98-9 to clearly outline the responsibilities of intake personnel to accept all complaints and forward all complaints to the OCC for review and resolution.

I agree that if the Board believes that P.I. #98-9, as it applies to intake procedures should be revised, that such can be undertaken with a minimum of time and effort.

**RECOMMENDATION 7:**

The director of the Office of Citizen Complaints should develop and institute a procedure to regularly test the complaint process, including monitoring intake procedures and reviewing tape-recorded interviews.

I agree that regular testing of the complaint process is advisable. However, this again entails the need for funding and additional manpower.

Sincerely,



I. Pearl Fain  
Director  
Office of Citizen Complaints